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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 PHILIP MARTINEZ,

8 Plaintiff,

9 v.

10 ALBERTSON'S, LLC, *et al.*,

11 Defendants.

Case No. 2:18-cv-02319-JCM-GWF

ORDER

12 This matter is before the Court on Plaintiff's Motion for Service by Publication on
13 Shawanda Robinson and to Extend Time to Serve (ECF No. 21), filed on January 25, 2019.

14 This matter arises from allegations of tortious discharge in violation of public policy and
15 assault. *See Complaint* (ECF No. 1-4). Plaintiff requests a sixty (60) day extension of time to
16 effectuate service on Defendant Shawanda Robinson as well as permission to serve her by
17 publication.

18 Pursuant to LR IA 6-1, extensions of time may be granted for good cause shown. Further,
19 Rule 4(m) of the Federal Rules of Civil Procedure – which governs the time limit of service –
20 allows the court to grant an extension of time for service if the plaintiff can show good cause for
21 the failure to timely serve a defendant. Rule 4(e) of the Federal Rules of Civil Procedure provides
22 that the state statutes in which the District Court is held are followed in matters pertaining to
23 service of summons by publication. N.R.C.P. 4(e)(1)(i) states that the court may permit service
24 by publication if, after due diligence shown, the plaintiff is unable to find the defendant(s) within
25 the state, or they are avoiding the service of summons. The plaintiff must prove this to the
26 satisfaction of the court either by affidavit or by a verified complaint. The Nevada Supreme Court
27 has held that there is no objective, formulaic standard for determining what is, or is not, due
28 diligence. *Abreu v. Gilmer*, 985 P.2d 746, 749 (1999).

1 Plaintiff represents that he has served subpoenas on the City of Henderson Police
2 Department and the Southern Nevada Adult Mental Health – Stein Hospital (“Stein Hospital”) to
3 locate Defendant Robinson’s address. Plaintiff has attempted to locate Plaintiff by contacting a
4 telephone number contained in documents produced by the Henderson Police Department and by
5 contacting Stein Hospital. These efforts have produced no results. The Court finds that Plaintiff
6 has provided sufficient good cause to warrant the requested sixty (60) day extension. Further,
7 Plaintiff has demonstrated due diligence in attempting service on Defendant Robinson that would
8 warrant permitting service by publication. Accordingly,

9 **IT IS HEREBY ORDERED** that Plaintiff’s Motion for Service by Publication on
10 Shawanda Robinson and to Extend Time to Serve (ECF No. 21) is granted as follows:

- 11 1. Defendant Shawanda Robinson may be served by Plaintiff through publication of
12 the summons and complaint in this case at least once a week for four (4) consecutive
13 weeks in the Nevada Legal News, which is a newspaper of general circulation
14 published in Las Vegas, Nevada.
- 15 2. Plaintiffs shall have until **April 15, 2019** to serve Defendant Robinson.

16 Dated this 30th day of January, 2019.

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19 GEORGE FOLEY, JR.
20 UNITED STATES MAGISTRATE JUDGE
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